

about the calf.

5. (Amended) Orthopedic splint according to claim 1, [characterized in that] wherein the padding for the calf (9) is fastened on the inner side of the covering section by hook and loop fastening means [of a Velcro fastener].

REMARKS

In the Office Action issued on June 7, 2001, the Examiner refers to claim 2 as not being in dependent form. However, in Amendment A, copy attached, applicant had amended claims 2 and 4, found by the Examiner to have allowable subject matter, into independent form. It may be that the Office had lost Amendment A in addition to the papers recently resubmitted by Applicant.

Accordingly, it does not appear that the Examiner considered the amended claims in Amendment A, but rather, based his rejection on the originally filed claims.

With that assumption applicant is filing this Amendment A1 which is a slightly rewritten version of Amendment A (which had some glitches), apparently not entered.

Applicant requests that this Amendment A be entered and considered as an amendment under Rule 111 in place of Amendment A, apparently not entered, and in response to Papers No. 6 and No. 12.

The Examiner's rejection of claim 5 in Paper No. 6 under 35 U.S.C. §112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as this rejection may be attempted to be applied to the amended claims, is respectfully traversed.

In support of this traverse, applicant states that claim 5 has been amended to remove the trademark, VELCRO from the claim.

The Examiner's rejection of claims 1 and 6 in Paper No. 6 under 35 U.S.C. §102(b) for being anticipated by the Moore U.S. Patent No. 3,831,467, as this rejection may be attempted to be applied to the amended claims, is respectfully traversed.

In support of this traverse, applicant first points out that claim 6 has been canceled and claim 1 has been amended to call for:

--the covering section to include a padding for the calf (9) only with the covering section urging the padding toward the calf only and not toward the knee--.

Such structure is not at all disclosed in Moore. All that Moore discloses is a

knee brace for immobilization of the knee. There are provided a couple of straps 28 and rigid stays 36, and a planar base sheet of flexible resilient material. Column 2, lines 35-37 reads:

“Due to the natural bodes cavity in the back of the knee, the stiffeners (36) will be spaced from the leg in the popliteal region.”

To solve this problem, Moore proposes a resilient pad 42 placed in the popliteal region (see Column 2), lines 38-55).

According to the present invention, there is provided a padding which pushes on the calf and exerts a forwardly directed force on the calf.

Applicant's solution is directed to another problem than to the problem which Moore wants to solve. The medical background described in the specification explains the problem to be solved. Moore does not solve the problem of the dead weight of the leg pulling the calf into the posterior drawer. As is shown in FIG. 2, the padding 9 is clearly below the knee 14.

The Examiner's rejection of claim 5 in Paper No. 6 under 35 U.S.C. §103(a) for being unpatentable over Moore in view of the Wang U.S. Patent No. 5,282,483, as this rejection may be attempted to be applied to the amended claims, is respectfully traversed.

In support of this traverse, while Wang may teach the use of hook and loop fastening means sold under the trademark VELCRO in a splint, neither Moore or Wang teach applicant's splint.

Claims 2-4 were indicated in Paper No. 6 as having allowable subject matter. Claims 2 and 4 have been rewritten into independent form and as so rewritten are considered to be in condition for allowance. Amended claim 3 is dependent on rewritten claim 2.

Since the Johnson patent was previously cited, but not previously applied, applicant submits that the making of the latest Office Action FINAL is premature, since applicant was previously unaware of any rejection based on Johnson et al. Patent No. 5,387,185 or 5,626,150. Accordingly, applicant petitions for removal of the finality of the latest Office Action, Paper No. 12.

The Examiner's rejection of claims 1-3 and 5-6 in Paper No. 12 under 35 U.S.C. §103(a) for being unpatentable over the Johnson et al. U.S. Patent

No.5,626,150 or the Johnson et al. U.S. Patent No. 5,387,185 in view of the Moore patent, as this rejection may be attempted to be applied to the amended claims is respectfully traversed.

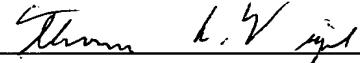
Since the Johnson et al. U.S. Patent No. 5,626,150 only has three figures, applicant assumes that the Examiner is applying the Johnson et al. U.S. Patent No. 5,387,185, cited as category A, "document defining the general state of the art which is not considered to be of particular relevance" in the International Search Report, since this patent has five figures.

With respect to the Moore patent, applicant repeats and iterates the arguments set forth above with respect to the Examiner's rejection of claim 1 based on Moore.

With respect to Johnson et al., this patent is similar to the other references cited in that it teaches a padding which although adjacent the calf, extends above the back of the knee and does not exert pressure only on the calf and not on the knee, as called for in applicant's structure.

In summary, applicant submits that upon entry of the above amendments to the specification and claims, and reconsideration of the claims as amended in conjunction with the above remarks, it will be clear that the claims and application are now in condition for allowance. An early and favorable action to that end is requested.

Respectfully submitted,



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